

No. 03-19-00198-CV

FILED IN
3rd COURT OF APPEALS
AUSTIN, TEXAS
8/23/2019 1:18:00 PM
JEFFREY D. KYLE
Clerk

In the Court of Appeals
Third Judicial District

Madeleine Connor,
Appellant

vs.

Douglas Hooks and Elizabeth Hooks,
Appellees

**APPELLANT’S RESPONSE TO “APPELLEES/DEFENDANTS [SIC]
MOTION TO STAY APPELLANT/PLAINTIFF MADELEINE CONNOR’S
APPEAL, REQUIRE COMPLIANCE WITH CHAPTER 11, TEX. CIV.
PRACT. & REM. CODE AND/OR DISMISS THE APPEAL”**

MADELEINE CONNOR
Texas Bar No. 24031897
P.O. Box 161962
Austin, Texas 78716-1962
Phone (512) 289-2424
Fax (512) 329-5229
ATTORNEY PRO SE FOR APPELLANT

TO THE HONORABLE THIRD COURT OF APPEALS:

COMES NOW, Appellant Madeleine Connor, and files this her Response to Appellees' Motion to Stay.

On August 20, 2019, Appellants filed a motion to stay, and alternatively, to dismiss – requesting that the Court apply the general requirements of Tex. Civ. Prac. & Rem. Code § 11.102 to Connor's appeal. *See id.* (a vexatious litigant must obtain permission from the Local Administrative Judge (LAJ) to permit any new litigation).

On the same day, the Clerk rejected the motion for lack of conference and other deficiencies, and subsequently, Appellees' counsel emailed a request for conference to Appellant. See Ex. 1.

Connor responded that she was opposed to the motion, and also supplied counsel with the applicable provision Tex. Civ. Prac. & Rem. Code § 11.103(d), demonstrating that an appeal from a vexatious litigant order need not be approved by the LAJ under § 11.102. *See also*, Tex. Civ. Prac. & Rem. Code § 11.101(c).

“Section 11.101(c) expressly permits an appeal from a prefiling order: ‘[a] litigant may appeal from a prefiling order entered under [section 11.101(a)] designating the person a vexatious litigant.’” *Hollis v. Acclaim Physician Grp., Inc.*, 2019 Tex. App. LEXIS 6414, *7, 2019 WL 3334617 (Tex. App.—Fort Worth July

25, 2019, no pet. hist.); see Ex. 1; *see also*, Tex. Civ. Prac. & Rem. Code § 101(c) (“A litigant may appeal from a prefiling order entered under Subsection (a) designating the person a vexatious litigant.”).

Here, the trial court did not impose a security bond on Connor, see Ex. 2 at 1; therefore, Connor was not required to obtain the approval of the LAJ to appeal the vexatious-litigant finding *pro se* and the motion to stay must be denied. *See* Tex. Civ. Prac. & Rem. Code § 11.101(c). That is, the only issue to be decided in this appeal is the vexatious-litigant finding itself, and any such determination may be timely appealed *pro se* as permitted by the statute and the facts of this case. *See* Ex. 2 at 1 (reflecting that the Rule 202 proceeding was non-suited with prejudice prior to the trial court’s entry of the vexatious litigant finding); *see* Tex. Civ. Prac. & Rem. Code §§ 11.101(c), 11.103(d); *cf.* *Hollis*, 2019 Tex. App. LEXIS 6414, *8 (“Because Hollis generally appeals from the entire order declaring him to be a vexatious litigant and requiring him to furnish security...we do not have jurisdiction over...the portion of the vexatious-litigant order ordering him to furnish security....”).

Therefore, the motion to stay/dismiss is frivolous, and the Court should—on its own motion—make a frivolity determination, especially since Connor’s response

to the conference request points out statutory authority for her opposition. See Ex. 1.

PRAYER

Appellant prays that this Court deny Appellees' motion for stay/dismissal/security. Additionally, Appellant requests that the Court determine that Appellees' motion is frivolous. *See, e.g.*, Tex. R. App. P. 45.

Respectfully submitted,

/s/ Madeleine Connor

MADELEINE CONNOR

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ATTORNEY PRO SE FOR APPELLANT

CERTIFICATE OF SERVICE

I certify that this instrument was served by electronic service on the following persons on the 23rd day of August, 2019: Robert Nunis at bnunis@nunislaw.com, and Sherry Rasmus at sgrasmus@rasmusfirm.com.

/s/ Madeleine Connor

Madeleine Connor

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The Best Way to Celebrate

AD

RE: Conference as to Appellees' Motion to Stay



Aug 20 at 5:48 PM

PrintRaw message

Sherry Rasmus <sgrasmus@rasmusfirm.com>

To:

'Madeleine Connor' <mgbconnor@yahoo.com>

Thank you for your response.

Sherry Rasmus
The Rasmus Firm
P. O. Box 1484
Manchaca, TX 78652-1484
(512) 481-0650
(512) 481-0604 (facsimile)

From: Madeleine Connor [mailto:mgbconnor@yahoo.com]

Sent: Tuesday, August 20, 2019 5:21 PM

To: Sherry Rasmus

Cc: brunis@nunislaw.com; Stephanie Criscione

Subject: Re: Conference as to Appellees' Motion to Stay

Yes. I oppose - The statute does not require the approval of the LAJ to appeal the VL order. See Ch. 11 s 103(d). Thanks. MBC

Sent from my iPhone

On Aug 20, 2019, at 5:02 PM, Sherry Rasmus <sgrasmus@rasmusfirm.com> wrote:

Ms. Connor:

Do you oppose Appellees' Motion to stay appeal in 03-19-00198?

Sherry Rasmus
The Rasmus Firm
P. O. Box 1484
Manchaca, TX 78652-1484
(512) 481-0650
(512) 481-0604 (facsimile)

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CAUSE NO. D-1-GN-18-005130

MAR 08 2019
At 4:02 PM
M.
Velva L. Price, District Clerk

IN RE MADELEINE CONNOR,
Petitioner

v.

DOUGLAS HOOKS and
ELIZABETH HOOKS,
Respondent

§
§
§
§
§
§
§

IN THE DISTRICT COURT

201st JUDICIAL DISTRICT

TRAVIS COUNTY, TEXAS

ORDER DETERMINING PLAINTIFF A VEXATIOUS LITIGANT

On January 23, 2019, the Court heard Respondent Douglas Hooks' Motion to Deem Plaintiff Madeleine Connor a Vexatious Litigant in the above-styled and numbered cause.

In making this order, the Court considered the Respondents' Motion, evidence presented at the hearing, supplemental evidence Petitioner Madeleine Connor requested and was granted leave to file after the hearing, and arguments of the Parties. The Court notes that prior to the January 23, 2019 hearing, on January 22, 2019 at 10:06 p.m. Madeleine Connor filed another lawsuit against Respondents (Cause No. D-1-GN-19-000428, *Madeleine Connor v. Douglas Hooks, Elizabeth Hooks and Jane/John Does 1-14*, 459th Judicial District Court of Travis County Texas), and did not mention the filing of this suit at any time during the approximately one and a half hour hearing held on January 23, 2019. Additionally, the Court takes judicial notice that on January 24, 2019 at 6:35 a.m. Madeleine Connor filed a Notice of Non-suit with Prejudice in this cause of action, Cause No. D-1-GN-18-005130. Although Section 11.055 of the Texas Civil Practice and Remedies Code requires the Court to order plaintiff to furnish a security, in this instance Plaintiff Madeleine Conner has non-suited her case with prejudice and therefore a security is no longer necessary and will be dismissed as moot.



The Court finds that in the seven year-period immediately preceding the date Respondent Douglas Hooks filed his motion under Section 11.051 of the Texas Civil Practice and Remedies Code, Petitioner Madeleine Connor had commenced, prosecuted, or maintained at least five litigations as a pro se litigant other than in small claims court that have been finally determined adversely to Madeleine Connor as required by Section 11.054(1) of the Texas Civil Practice and Remedies Code.

The Court further finds that Madeleine Connor was declared a vexatious litigant by United States District Judge Robert Pitman on August 30, 2018 in Cause NO. 1:17-CV-827-RP, filed in the United States District Court For the Western District of Texas, Austin Division, styled *Madeleine Conner, Plaintiff v. Leah Stewart, Eric Castro, and Chuck McCormick*. The Court notes that Madeleine Connor is appealing Judge Pittman's ruling that she is a vexatious litigant and that such appeal is currently pending before the United States Court of Appeals for the Fifth Circuit, Cause No. 18-50815, styled *Madeleine Connor v. Leah Stewart et al.*

The Court finds that Defendant Douglas Hooks' Motion to Deem Plaintiff Madeleine Connor a Vexatious Litigant pursuant to Section 11.051 *et seq.* of the Texas Civil Practice and Remedies Code should be GRANTED.

Therefore, it is ORDERED that Madeleine Connor is a vexatious litigant as that term is defined by Section 11.054 of the Texas Civil Practice and Remedies Code.

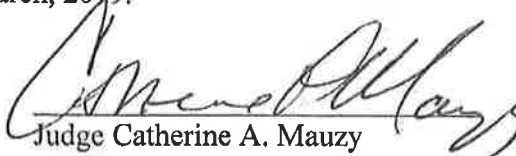
It is further ORDERED that Plaintiff Madeleine Connor, having been found to be a vexatious litigant, is prohibited from filing, on her own behalf as a pro se litigant, any new litigation in any state district or statutory county court in Texas, against any party, as provided by Section 11.102 of the Texas Civil Practice and Remedies Code as follows:

PERMISSION BY LOCAL ADMINISTRATIVE JUDGE. (a) A vexatious litigant subject to a profiling order under Section 11.101 is prohibited from filing, pro se, new litigation in a court to which the order applies without seeking the permission of:

- (1) the local administrative judge of the type of court in which the vexatious litigant intends to file, except as provided by Subdivisions (2); or
- (2) the local administrative district judge of the county in which the vexatious litigant intends to file if the litigant intends to file in a justice or constitutional county court.
- (3) a vexatious litigant subject to a pre-filing order under Section 11.101 who files a request seeking permission to file litigation shall provide a copy of the request to all defendants named in the proposed litigation.

The Court finds that Madeleine Connor is an attorney licensed to practice law in the State of Texas. It is therefore ORDERED that this order is applicable only to cases in which Plaintiff Madeleine Conner is acting as a pro se litigant.

SIGNED on this the 8 day of March, 2019.


Judge Catherine A. Mauzy